



CITY COUNCIL STAFF REPORT

MEETING DATE: June 6, 2012

Agenda Item # 21

Prepared By:

Housing Manager

Approved By:

Comm. Econ. Dev. Dir.

Submitted By:

City Manager

TEFRA HEARING – MORGAN HILL RETIREMENT RESIDENCE

RECOMMENDED ACTION(S): 1) Open/close the public hearing; and 2) Approve a resolution for the issuance of bonds by the California Statewide Communities Development Authority for the Morgan Hill Retirement Residence project, a 138-unit senior rental congregate care retirement residence located northwest of Butterfield Blvd. and Barrett Ave. (APN 817-30-050)

EXECUTIVE SUMMARY: On February 8, 2011, Global Premier Development Inc., received final land use entitlements for a 138-unit senior rental congregate care retirement residence located northwest of Butterfield Blvd. and Barrett Ave.

On August 24, 2011, the City Council held a Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing to facilitate bonds for the project and approved a resolution authorizing \$18M in bond capacity. Global Premier, however, was unable to obtain all the necessary financing and could not use the authorized bond capacity in 2011. As noted in the attached letter, in Spring 2012, the landowner replaced the original developer with Community Development Partners (CDP) who are now attempting to finance and construct the same project. CDP is requesting that the City Council conduct another TEFRA Hearing for the project and approve a resolution authorizing up to \$19M in bond capacity. There are no material changes to the project since 2011 and the only matter before the City Council for this public hearing is the proposed bond financing of the project.

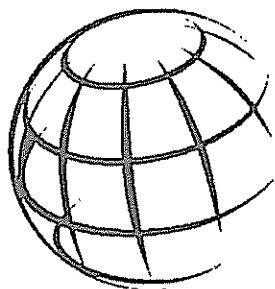
A public hearing is required by the bond issuing authority, California Statewide Community Development Authority (“the Authority”) and the TEFRA in order to issue tax-exempt revenue bonds. The bonds would be tax-exempt private activity bonds for the purposes of the Internal Revenue Code and, as such, require the approval of a resolution of the elected body of the governmental entity having jurisdiction over the area where the project to be financed is located.

The Authority is a California joint exercise of powers authority, organized and existing under the laws of the State of California, and is sponsored by the League of California Cities and the California State Association of Counties. The City of Morgan Hill, along with over 480 other California cities, counties and special districts, is a member of the Authority. The Authority is authorized to assist in the financing of senior housing projects.

FISCAL/RESOURCE IMPACT: There is no direct or indirect financial impact to the City of Morgan Hill as a result of this proposed financing. The City will not be under any obligation to repay the Bond indebtedness. The Authority will issue tax-exempt revenue bonds on behalf of the Project. The tax-exempt revenue bonds are payable solely out of the revenues derived by the Developer from the applicable Project. No financial obligations are placed on the City for project financing costs or debt repayment.

Attachments

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Global Premier Development, Inc.

April 24, 2012

Sean L. Spear
Executive Director
California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
Sacramento, CA 95814

**Re: Return of Tax Exempt Bond Allocation and request for waiver of performance deposit forfeiture
Morgan Hill Retirement Residence (Application #11-105)**

Dear Mr. Spear:

In a letter dated March 9, 2011 the above referenced project was granted an issuance deadline extension through December 31, 2012 and on March 21, 2012 CDLAC agreed to waive forfeiture of the performance deposit, as would normally required, because the late withdrawal of the equity of investor without explanation was outside our control.

Site control for the project was set to expire March 26, 2012 and we had reasonably expected to be able to obtain an extension from the land seller. Unfortunately, upon learning of our need for an extension and the reasons for it the land seller felt there was not enough certainty we would be able to obtain a new equity investor and chose not to extend site control beyond March 26, 2012. As a result of these events we will be unable to move forward with the above referenced allocation and wish to return it to CDLAC.

We also wish to request a waiver of forfeiture of our performance deposit. The same circumstances necessitating the previously granted extension are necessitating our return of the above referenced allocation. As such, we respectfully request forfeiture of the performance deposit be waived and the deposit be returned to us.

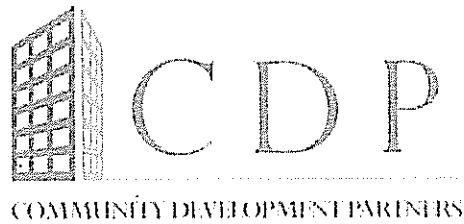
We very much appreciate your attention to this matter and CDLAC efforts in working with us in trying to bring this project to fruition and it is with great dissapointment that we inform you of our inability to ultimately do so. Please contact me if there is anything additional I can do or provide to help facilitate return of the above referenced allocation and CDLAC's consideration of our waiver request.

Sincerely,

Andrew Hanna, President

2010 Main Street, Suite 1250 * Irvine * California * 92614
Office (949) 222-9119 Fax (949) 222-0942

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May 4, 2012

Erwin Ordoñez, AICP, EDFP
Housing Manager
Community Development Agency
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

Re: Morgan Hill Retirement Residence

Dear Mr. Ordoñez,

I am writing you in regard to the above referenced project to provide you and the City of Morgan Hill with information regarding changes that have taken place with the development team and financing structure since the TEFRA Resolution was passed last year and to respectfully request additional assistance from the City to see this development come to fruition. When last before you, the proposed Morgan Hill Retirement Residence project was to be developed and owned by Morgan Hill Housing Investors, L.P., a California limited partnership whose general partners were Global Premier Development, Inc. and the Pate Foundation, a California nonprofit public benefit corporation. Since successfully receiving an allocation of tax-exempt bonds from the California Debt Limit Allocation Committee (CDLAC) and a reservation of low-income housing tax credits from the California Tax Credit Allocation Committee (CTCAC) last September the equity investor selected by the development team withdrew and the development team was unable to find a replacement in time to close on its financing and purchase the land before its site control expired. Subsequently, the tax-exempt bonds and low income housing tax credits were returned to CDLAC and CTCAC respectively.

Because of my involvement with the project in my previous role as Vice President of Acquisitions for Global Premier Development, Inc. the land owner approached me about stepping in and seeing the project through to completion. My partners and I were very excited about the opportunity and have entered into an agreement with the land seller giving us site control and, with the cooperation of the previous development team, have acquired the previously produced project documents, designs and entitlements so that the project will be constructed and operated as previously approved by the City.



After leaving Global Premier Development, Inc. I formed Community Development Partners with childhood friends and successful market rate and commercial developers Eric Paine, Kyle Paine and Sean Robbins. Information on our company and our qualifications can be found on our website at www.communitydevpartners.com. We have partnered with ICON Builders ("ICON") and Foundation for Affordable Housing V, Inc., a California nonprofit public benefit ("Foundation") corporation as owners and operators of the project and have formed a limited partnership called Morgan Hill Retirement Residence, LP to do so. ICON has over 60 years experience as a contractor and developer of both family and senior multifamily housing and Foundation has been involved in the development and operation of over 90 affordable housing communities in California. Additional information on our partners can be found on their websites at www.iconbuilders.com and www.ffah.org, respectively. As stated above we have retained the design, management and legal teams previously involved in the project.

The design of the project is unchanged. The Morgan Hill Retirement Residence is proposed to be built northwest of Butterfield Blvd. and Barrett Ave., in Morgan Hill, California, APN: 817-30-050 which is approximately 5.3 acres and currently zoned for a rental congregate care retirement residence for seniors.

The project has been designed by the award-winning Lenity Group with careful consideration to meeting the demands of affordability while incorporating architectural amenities consistent with quality market rate apartment communities. The project will involve construction of 1 three-story building that will house 109 one-bedroom rental units, 27 two-bedroom rental units, 2 one-bedroom on-site manager units and a recreation center. All rental units will be age and income restricted. All tenants will be required to be 55-years or older and 22 one-bedroom units and 6 two-bedroom units will be available to tenants earning no more than 50% of the area median income for Santa Clara County (AMI) and 87 one-bedroom units and 21 two-bedroom units will be available to tenants earning no more than 60% of AMI. The Recreation Center will contain the manager's office, a lobby, a recreation room, a computer room and a full service industrial kitchen facility and dining area. Educational classes and counseling services will be provided to the residents at no charge by the project owner in the recreation center. The kitchen facility and dining area will be sufficient to serve the tenants a minimum of three meals a day as part of a meal plan that will be available at a reasonable cost and other services such as transportation, housekeeping and laundering will also be available at reasonable prices. The recreation room will feature comfortable lounge seating, and will be equipped with a television and DVD player. The project will also have outdoor picnic and barbeque areas.



The proposed project design complies with all the General Plan guidelines and zoning requirements, and conforms to the adjacent land uses, thereby creating no negative impact on the surrounding neighborhood. The anticipated construction period is approximately twelve months and is anticipated to begin in August of 2012 and be completed in August of 2013 meaning the Morgan Hill Retirement Residence will begin moving in and serving tenants in the fourth quarter of 2013.

Financing for the project will come from equity generated by low-income housing tax credits and approximately \$18 million in tax-exempt private activity bonds allocated by CDLAC that will be purchased by a private banking institution providing a loan to the Project.

My partners and I understand that the City and numerous members of the City government and staff have already made great efforts to assist the previous development team with this Project without seeing it come to fruition. I believe, however, that with my company's involvement and the involvement of our partners and development team we have the know how and ability to bring this quality Project to fruition and begin providing valuable housing and services to the Morgan Hill Community by the end of next year. In order to do so I am respectfully requesting your assistance, and the assistance of the other members of the City government and staff, in preparing the financing applications we plan to submit to CDLAC for the tax-exempt private activity bonds and to CTCAC for the low income housing tax credits on May 18, 2012 and in working with the California Statewide Communities Development Authority (CSCDA) to hold the TEFRA hearing and adopt the TEFRA resolution on June 6, 2012 that are required for the bond financing we are requesting from CDLAC. The CDLAC and CTCAC programs we are applying for are non-competitive and based on the experience and ability of our team and the previous success of the Project in receiving such financing we feel it is a virtual certainty we will have said financing approved in July, 2012 allowing us to meet the construction schedule referenced above. The TEFRA hearing and resolution are required for us to receive the contemplated bond financing from CDLAC but neither they, nor any other assistance being requested of the City, create any obligation of the City, financial or otherwise. The bonds will be issued by CSCDA and any financial obligation will be borne by the project developer.

I appreciate your attention to this matter and look forward to the opportunity to work with you and other members of the City government and staff in seeing this exciting and valuable project come to fruition. Please



contact me if you have any questions regarding the project or would like any additional information regarding the project.

Sincerely,

Darren Berberian, President and Chief Operating Officer

Community Development Partners

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE ISSUANCE BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY OF MULTIFAMILY HOUSING REVENUE BONDS FOR THE MORGAN HILL RETIREMENT RESIDENCE

WHEREAS, the California Statewide Communities Development Authority (the "Authority") is authorized pursuant to the provisions of California Government Code Section 6500 et seq. and the terms of an Amended and Restated Joint Exercise of Powers Agreement, dated as of June 1, 1988 (the "Agreement"), among certain local agencies throughout the State of California, including the City of Morgan Hill (the "City"), to issue revenue bonds in accordance with Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code for the purpose of financing multifamily rental housing projects; and

WHEREAS, Morgan Hill Retirement Residence, LP, a limited partnership or related entities, has requested that the Authority adopt a plan of financing providing for the issuance of multifamily housing revenue bonds (the "Bonds") in one or more series issued from time to time, including bonds issued to refund such revenue bonds in one or more series from time to time, and at no time to exceed \$19,000,000 in outstanding aggregate principal amount, to finance the acquisition, construction and development of a 138-unit senior multifamily rental housing project located at Northwest Butterfield Boulevard and Barrett Avenue (APN, 817-03-050), Morgan Hill, California, generally known as Morgan Hill Retirement Residence (the "Project") and operated by Buckingham Property Management; and

WHEREAS, the Bonds or a portion thereof will be "private activity bonds" for purposes of the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, pursuant to Section 147(f) of the Code, prior to their issuance, private activity bonds are required to be approved by the "applicable elected representative" of the governmental units on whose behalf such bonds are expected to be issued and by a governmental unit having jurisdiction over the entire area in which any facility financed by such bonds is to be located, after a public hearing held following reasonable public notice; and

WHEREAS, the members of this City Council (this "City Council") are the applicable elected representatives of the City; and

WHEREAS, there has been published, at least 14 days prior to the date hereof, in a newspaper of general circulation within the City, a notice that a public hearing regarding the Bonds would be held on a date specified in such notice; and

WHEREAS, such public hearing was conducted on such date, at which time an opportunity was provided to interested parties to present arguments both for and against the issuance of the Bonds; and

WHEREAS, the Authority is also requesting that the City Council approve the issuance of any refunding bonds hereafter issued by the Authority for the purpose of refinancing the Bonds which financed the Project (the "Refunding Bonds"), but only in such cases where federal tax laws would not require additional consideration or approval by the City Council; and

WHEREAS, it is intended that this resolution shall constitute the approval of the issuance of the Bonds required by Section 147(f) of the Code and Section 9 of the Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL AS FOLLOWS:

Section 1. The above recitals are true and correct.

Section 2. The City Council hereby approves the issuance of the Bonds and the Refunding Bonds by the Authority. It is the purpose and intent of the City Council that this resolution constitute approval of the Bonds for the purposes of (a) Section 147(f) of the Code and (b) Section 9 of the Agreement.

Section 3. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents that they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing approved hereby.

Section 4. The City Clerk shall forward a certified copy of this Resolution and a copy of the affidavit of publication of the hearing notice to:

Justin Cooper, Esq.
Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, California 94105

Section 5. This resolution shall take effect immediately upon its passage.

ADOPTED by the City Council of the City of Morgan Hill at a regular meeting of
said Council held on the []th day of [], 2012, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

Mayor

City Clerk

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